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INFORMATIVE NOTE FROM THE ARGENTINE GOVERNMENT ON THE
SITUATION REGARDING HUMAN RIGHTS

This document is being distributed to the missions and delegations and
will be presented to the Preparatory Committee of the General Assembly

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ORGANIZACION DE LOS ESTADOS AMERICANOS
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ORGANIZATION OF AMERICAN STATES

OEA/2-3.5/81

March 30, 1981

Excellency:

I have the honor to refer to Your Excellency, for the pertinent purposes, a copy of the note from the Permanent Mission of Argentina dated March 27 forwarding the document "Informative Note from the Argentine Government on the situation regarding human rights." That Mission also requests that the document be reproduced as a document of the Preparatory Committee of the General Assembly and distributed to the missions and delegations.

Accept, Excellency, the assurances of my highest consideration.

Alejandro Orfila
Secretary General

His Excellency
Ambassador Luis Marchand Stens
Chairman of the Preparatory Committee
of the General Assembly
Organization of American States
Washington, D.C.

Permanent Mission of Argentina
to the Organization of American States

SG No. 116 (7.2.0.)/81

The Permanent Mission of Argentina to the Organization of American States presents its compliments to the General Secretariat and is requesting that the attached document entitled "Informative Note from the Argentine Government on the situation regarding Human Rights" be reproduced and distributed among the delegations of the member states as a document of the Preparatory Committee of the General Assembly.

The Permanent Mission of Argentina to the Organization of American States renews to the General Secretariat the assurances of its highest consideration.

Washington, D.C., March 17, 1981

INFORMATIVE NOTE FROM THE ARGENTINE GOVERNMENT ON THE
SITUATION REGARDING HUMAN RIGHTS

During the Tenth Regular Session of the General Assembly of the Organization of American States, a document entitled "Informative Note from the Argentine Government" (OEA/Ser.P/AG/doc.1261/80) dated November 13, 1980, was presented with reference to Topic 21 on the Agenda. That document made reference to another previous document entitled "Observations and critical comments by the Argentine Government on the Report of the IACHR" and sought to explain developments that occurred in aspects concerning the question during the course of 1980, with the understanding that knowledge of this new background was essential for a better interpretation of the national reality.

At this point, as was announced by the Argentine Delegation in the course of the tenth regular session of the General Assembly, it is the intention of the Argentine Government to continue to report to the member states of the OAS on the matter so that they may have accurate information on situations that in the past have been presented in an inaccurate or distorted manner by sectors concerned because of political reasons. This decision further takes into account the interest shown by some countries in the hemisphere on how the problem develops and is a confirmation of the constant attention being given by the Argentine Government to the subject of human rights.

1. As is generally known, on March 29, 1981, a publicly significant political and institutional event will be taking place in Argentina. On that day, a new government will assume power in keeping with a process

present government has compiled various types of information in an effort to accomplish that objective. Basic elements they will have to take into account in preparing the rules that will make it possible finally to set in place the country's institutions have arisen through studies conducted and inquiries in the form of dialogue to which all sectors throughout the country were convoked.

The process of national reorganization is, however, based on the assumption that from the beginning the civilian population will participate gradually and progressively in the government's leadership. Initially, this participation was achieved at the municipal and ministerial levels in the provinces and nationally; subsequently and in this phase to begin on March 29, 1981, civilian personalities will be participating in the leadership of the governments of several Argentine provinces, for the most part occupying posts in the national ministerial cabinet and in almost all the ministries of the provinces and of the municipalities.

Both persons from the civilian population who have participated in the present government and those who have been appointed to the forthcoming government come from the most diverse political backgrounds. Many of them have occupied important government offices in previous administrations. Others have worked in management positions in a number of sectors that are undeniably representative of the national panorama.

The address by the President-designate Lieutenant General (retired) Roberto Viola at a protocolary ceremony held in his honor by the Permanent Council of the Organization of American States on March 16 last year in this sense, elucidating:

jurisprudence to take in aspects arising from an unprecedented and painful situation that the country has experienced in recent years. The scope of the various proceedings that the judges have to carry out in habeas corpus appeals was extended and specified by these new decisions by the highest court as a means of giving them broader guarantees to the right to individual freedom. This decision was followed up by recent amendments to the Code of Criminal Procedure to ensure that proceedings before the Federal Courts are more quickly and effectively dealt with.

Thus, it has been observed that in the recent procedure for this type of case, the justice system has taken action in observance of this new principle established by the Supreme Court, thereby extending in a uniform manner the valuable application of the new scope of the writ of habeas corpus, through the conduct of a number of legal proceedings which, in the past, were reserved solely for cases of investigations of criminal offenses.

With respect to decisions issued by the Military Courts, information has been obtained concerning recent rulings by the Court where not only have the specific charges been analyzed, and also sentences repealed when admissible, but also the jurisdiction of those courts to try offenses imputed to civilians has been studied in depth, and the validity of that jurisdiction recognized as it has a constitutional basis in the existence of a state of internal turmoil and in the need to remedy that situation by implementing exceptional measures.

Information has also been obtained regarding new rulings concerning the freedom of worship, whereby the courts have defined the scope of

association in question, it did not affect the constitutionally guaranteed individual profession of faith. It should, however, be noted that this new standard treatment is not in conflict with the possible definition of unlawful criminal action caused by attitudes or omissions in violation of duties legally imposed on all the inhabitants of the nation.

Moreover, representatives of various religious organizations that visited the country were able to observe in recent months the climate of full freedom of worship in Argentina. They were able to experience that reality and were able to contact various national authorities to whom they stated their satisfaction for the existing situation.

111. The salient feature of the period during which the present Argentine Government had to take over the country's administration was undoubtedly the indiscriminate violence that had taken root in the country during the past five years. The cause of that violence was the activities of terrorist organizations that threatened to destroy the very existence of the state and the emergence in growth of phenomena hitherto as unknown in the country as the cause giving rise to them.

The first and main task of the authorities who assumed power on March 24, 1976, was therefore, to succeed in eradicating from the national panorama that widespread violence which independently of any official decision or control, constituted an insurmountable obstacle to the normal running of the nation. Nothing connected with or stemming from that situation could find a final solution while the cause giving

would not solve the problem that gave rise to those effects nor would it be possible to create the conditions that would prevent similar consequences in the immediate future.

The last two years have shown that that choice was the right one. The eradication of widespread violence was accompanied by a simultaneous reduction in the number of anomalous situations that were its inevitable sequel. In 1980, eleven cases of possible kidnappings were denounced. Several of these have already been satisfactorily clarified and the remaining continue to be investigated. While those cases have not ceased to be, from the individual point of view, a subject of concern to the government, undoubtedly, the number of such cases shows that they are not indicative of an ongoing phenomenon but are isolated incidents that may be seen in the context of anomalous situations that could occur in any community.

It is well known that in the face of grave internal disturbances such as that which occurred in Argentina because of the generalized violence, governments can and must apply all means in their power to guarantee collective security. To that end, the Argentine Government resorted not only to the Judiciary but also to constitutional powers expressly provided for in such exceptional periods, such as detaining persons at the disposal of the national Executive Branch of government.

The Government has used that power wisely and has made a point of not prolonging detentions in prisons for more time than is necessary for reasons pertaining to the general interest. At present, there are 980

Throughout this process, the Argentine authorities have given specific proof of their willingness to cooperate with all international organizations that have jurisdiction in the field of the promotion and protection of human rights, and even with specialized agencies whenever the rapport between the parties has been governed by the proper rules and procedures to resolve objectively situations stemming from the exceptional circumstances experienced by the country during the recent past. Here, the Argentine government has consistently shown its willingness to enter into a constructive dialogue with those organizations that demonstrate that they intend to cooperate with the governments in implementing the necessary measures to preserve and ensure full respect for and exercise of human rights.

It is in that spirit that the Argentine Government has wished to continue to report, via this medium, to the member states of the Organization of American States.